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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR    | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|-------------------------|---------------------|------------------|
| 10/087,363      | 03/01/2002  | Ronald William Gavillet | VERT-0003           | 3330             |

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EXAMINER

DEANE JR, WILLIAM J

|          |              |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

2642

DATE MAILED: 06/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding..

## Office Action Summary

**Application No.**

10/087,363

**Applicant(s)**

GAVILLET, RONALD WILLIAM

**Examiner**

William J. Deane

**Art Unit**

2642

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. 2004/0057427 (Christie et al.).

With respect to claims 1, 5 and 13 note Figs. 5 and 6 and paragraph 0152. Christie et al. do not disclose that the system is used in a metropolitan area, but it would have been obvious to one of ordinary skill in the art to use the system wherever it was deemed necessary.

With respect to claim 2, note Fig. 6.

With respect to claim 3, note paragraphs 0063 and 0135.

With respect to claims 4 and 11, note paragraph 0152.

With respect to claims 6 – 7, note that the tandem switch (500 or 600) handles IP, ATM and circuit switched networks (see applicants definition on page 19, lines 16 – 17). Note paragraphs 0038 and 0041 of Christie et al.

With respect to claim 8, fiber is well known in the art and it would have been obvious to one of ordinary skill in the art to incorporate fiber wherever it was deemed necessary.

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With respect to claims 9 - 10, though Christie et al. does not disclose an RBOC, it would have been obvious to one of ordinary skill in the art to include RBOC in the system of Christie et al., as RBOCs are notoriously old in the art.

With respect to claim 12, if not inherent such a limitation would be obvious to one of ordinary skill in the art.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

U.S. Patent No. 6,804,229 (Landaveri et al.) – note Figs;

U.S. Patent Application No. 2003/0161296 (Butler et al.) – note Figs;


U.S. Patent Application No. 2003/0067903 (Jorgensen) – note Abstract and Figs.;

U.S. Patent Application No.2002/0052915 (Amin-Salehi) – note Fig. 5; and

U.S. Patent Application No. 2001/0038689 (Liljestrand et al.) – note Figs.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bill Deane whose telephone number is (571) 272-7484. In addition, facsimile transmissions should be directed to Bill Deane at facsimile number (703) 872-9314.

05Jun05

  
WILLIAM J. DEANE, JR.  
PRIMARY EXAMINER